

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

03-cr-158-jcs-01

RANDELL D. THOMAS,

Defendant.  
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In an order entered on June 3, 2009 I denied defendant Randell D. Thomas's motion for a reduction in his sentence under 18 U.S.C. § 3582(c)(2). Now defendant has filed a notice of appeal and motion to proceed on appeal in forma pauperis. He has not paid the \$455 fee for filing his notice of appeal, which is required if he is to take an appeal from the denial of a § 3582 motion. Therefore, I construe defendant's notice as including a request for leave to proceed in forma pauperis on appeal pursuant to 28 U.S.C. § 1915.

As I explained in the June 3, 2009 order, defendant is not eligible for a sentence reduction because of a change in the applicable guidelines. His sentence was determined prior to the guideline change on which he relies and it had nothing to do with the guidelines applicable to him. Because defendant wants to raise a legally frivolous argument on appeal, I must certify that his appeal is not taken in

good faith.

Pursuant to Fed. R. App. P. 24, defendant has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

ORDER

IT IS ORDERED that defendant Randell Thomas's request for leave to proceed in forma pauperis on appeal from this court's order of June 3, 2009 is DENIED. I certify that defendant's appeal is not taken in good faith.

Entered this 17<sup>th</sup> day of June, 2009.

BY THE COURT:

/s/

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BARBARA B. CRABB  
District Judge